

ILLINOIS REGISTER  
DEPARTMENT OF REVENUE  
NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Number: 100.2199                      Proposed Action: Amendment
- 4) Statutory Authority: 35 ILCS 5/212 and 5/1401
- 5) A Complete Description of the Subjects and Issues Involved: Prior to the enactment of Public Act 95-0333, the earned income tax credit allowed under IITA Section 212 was refundable only if the taxpayer was eligible for Temporary Assistance for Needy Families. A refundable credit is one that can reduce the taxpayer's liability to below zero, allowing a "refund" that is actually greater than any withholding or other payments made by the taxpayer. Under Public Act 95-0333, the earned income credit is refundable for all taxpayers.
- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Number</u>	<u>Proposed Action</u>	<u>IL Register Citation</u>
100.2406	New Section	31 Ill. Reg. 15240; November 16, 2007
100.3380	Amendment	32 Ill. Reg 798; January 18, 2008
100.9700	Amendment	32 Ill. Reg 798; January 18, 2008
100.5040	Amendment	32 Ill. Reg. 4574; April 4, 2008
100.3500	Amendment	32 Ill. Reg. 5936; April 11, 2008
100.9730	New Section	32 Ill. Reg. 5936; April 11, 2008
100.2455	New Section	32 Ill. Reg. 6438; April 18, 2008
100.2655	New Section	
100.2196	Amendment	

- 11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking: Persons who wish to submit comments on this rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Paul Caselton  
Deputy General Counsel - Income Tax

Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, Illinois 62794

(217) 524-3951

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Low-income individuals whose earned income is derived from a small business they conduct may be entitled to a greater earned income credit under IITA Section 212 as amended by Public Act 95-0333. Municipalities and corporations are not affected.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2008

The full text of the Proposed Amendment begins on the next page:

SUBPART B: CREDITS

**Section 100.2199 Illinois Earned Income Tax Credit (IITA Section 212)**

- a) *For taxable years beginning on or after January 1, 2000 and ending on or before December 31, 2002, an individual shall be allowed a credit against the tax imposed by IITA Section 201(a) and (b) for the taxable year equal to 5% of the federal earned income tax credit allowed for such taxable year pursuant to IRC Section 32. (IITA Section 212(a))*
- b) Credit in excess of liability.
  - 1) For tax years beginning before January 1, 2003, ~~the~~ the credit allowed for the taxable year may not reduce the taxpayer's liability under ~~the IITA this Act~~ to less than zero. Therefore, no part of the credit is refundable in the event the tax liability of the taxpayer is reduced to zero. (IITA Section 212(b))
  - 2) For tax years beginning on or after January 1, 2003, and ending prior to August 21, 2007 (the effective date of Public Act 95-0333), if the amount of the credit exceeds the income tax liability for the applicable tax year, then the excess credit shall be refunded to the taxpayer only if the refund is counted towards the State's ability to meet its required Maintenance of Effort to qualify for reimbursement under the federal Temporary Assistance for Needy Families Block Grant. (IITA Section 212(b) and (b-5))
  - 3) For tax years ending on or after August 21, 2007, if the amount of the credit exceeds the income tax liability for the applicable tax year, then the excess credit shall be refunded to the taxpayer. (IITA Section 212(b))

- 4) Excess credit may not be carried over to other tax years. [\(IITA Section 212\(b\)\)](#)
- c) In the case of a nonresident or part-year resident, the Illinois earned income tax credit shall be equal to 5% of that portion of the federal earned income tax credit allowed pursuant to Section 32 of the IRC that bears the same ratio as the taxpayer's base income allocable to Illinois bears to the taxpayer's base income everywhere. [\(IITA Section 212\(a\)\)](#)

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)